

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Zev Carter	Team: Squad #3	CCRB Case #: 201900110	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 01/03/2019 5:00 AM	Location of Incident: [REDACTED]	Precinct: 73	18 Mo. SOL 7/3/2020	EO SOL 2/17/2021	
Date/Time CV Reported Fri, 01/04/2019 8:11 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 01/04/2019 8:11 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM William Russ	02660	964746	073 PCT
2. SGT Louis Martinez	03242	949266	073 PCT
3. SGT Arthur Mccarthy	04612	949289	073 PCT
4. An officer			073 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Shane Keller	19403	956792	073 PCT
2. POM David Damico	16358	957509	073 PCT
3. POM Ryan Smith	09568	965538	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Louis Martinez	Abuse: At § 87(2)(b) and § 87(2)(b) in Brooklyn, Sergeant Louis Martinez stopped the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
B.POM William Russ	Abuse: At § 87(2)(b) and § 87(2)(b) in Brooklyn, Police Officer William Russ stopped the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
C.SGT Louis Martinez	Abuse: At § 87(2)(b) and § 87(2)(b) in Brooklyn, Sergeant Louis Martinez threatened to arrest § 87(2)(b)	[REDACTED]
D. An officer	Force: At § 87(2)(b) and § 87(2)(b) in Brooklyn, an officer used physical force against § 87(2)(b)	[REDACTED]
E.POM William Russ	Abuse: At § 87(2)(b) and § 87(2)(b) in Brooklyn, Police Officer William Russ frisked § 87(2)(b)	[REDACTED]
F.POM William Russ	Abuse: At § 87(2)(b) and § 87(2)(b) in Brooklyn, Police Officer William Russ searched the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
G.SGT Louis Martinez	Abuse: At § 87(2)(b) and § 87(2)(b) in Brooklyn, Sergeant Louis Martinez searched the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
H.POM William Russ	Abuse: At § 87(2)(b) and § 87(2)(b) in Brooklyn, Police Officer William Russ seized § 87(2)(b)'s property.	
I.POM William Russ	Abuse: At the 73rd Precinct stationhouse, Police Officer William Russ issued a summons to § 87(2)(b)	
J.POM William Russ	Abuse: At the 73rd Precinct stationhouse, Police Officer William Russ issued a summons to § 87(2)(b)	
K.SGT Arthur Mccarthy	Off. Language: At the 73rd Precinct stationhouse, Sergeant Arthur McCarthy made comments about § 87(2)(b)'s perceived mental state.	
L.SGT Louis Martinez	Abuse: At the 73rd Precinct stationhouse, Sergeant Louis Martinez forcibly removed § 87(2)(b) to the hospital.	
M.POM William Russ	Abuse: At the 73rd Precinct stationhouse, Police Officer William Russ forcibly removed § 87(2)(b) to the hospital.	
§ 87(4-b), § 87(2)(g)		

Case Summary

On January 4, 2019, § 87(2)(b) filed this complaint with the CCRB.

On January 3, 2019, at approximately 5:00 a.m., at the intersection of § 87(2)(b) and § 87(2)(b) in Brooklyn, Sergeant Louis Martinez and Police Officer William Russ of the 73rd Precinct stopped § 87(2)(b) in his car (**Allegation A: Abuse of Authority, § 87(2)(g)** **Allegation B: Abuse of Authority, § 87(2)(g)** The officers asked for § 87(2)(b)'s license and registration multiple times. Sgt. Martinez told § 87(2)(b) that he would be arrested if he did not provide his information (**Allegation C: Abuse of Authority, § 87(2)(g)** When § 87(2)(b) was outside of his car, PO Russ grabbed § 87(2)(b) by his upper arms and allegedly pushed him into his car (**Allegation D: Force, § 87(2)(g)** PO Russ frisked § 87(2)(b) (**Allegation E: Abuse of Authority, § 87(2)(g)** Sgt. Martinez and PO Russ allegedly searched § 87(2)(b)'s car (**Allegation F: Abuse of Authority, § 87(2)(g)** **Allegation G: Abuse of Authority, § 87(2)(g)** PO Russ transported § 87(2)(b)'s vehicle to the 73rd Precinct stationhouse (**Allegation H: Abuse of Authority, § 87(2)(g)** § 87(2)(b) was transported to the 73rd Precinct stationhouse, where PO Russ issued him two summonses for disorderly conduct (**Allegation I: Abuse of Authority, § 87(2)(g)** **Allegation J: Abuse of Authority, § 87(2)(g)** Sergeant Arthur McCarthy of the 73rd Precinct allegedly told § 87(2)(b) "You're crazy" (**Allegation K: Offensive Language, § 87(2)(g)** § 87(2)(b) refused to leave the 73rd Precinct stationhouse's holding cells and was removed to § 87(2)(b) Hospital (**Allegation L: Abuse of Authority, § 87(2)(g)** **Allegation M: Abuse of Authority, § 87(2)(g)** § 87(2)(g), § 87(4-b)

This case contains body-worn camera footage from PO Russ (**01, 02, 03 Board Review**), Police Officer Keller of the 73rd Precinct (**04 Board Review**), and Sgt. Martinez (**05 Board Review**), and footage from the exterior of the Family Dollar located at 384 § 87(2)(b) (**06 Board Review**). The footage from Family Dollar does not capture the incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: At § 87(2)(b) and § 87(2)(b) in Brooklyn, Sergeant Louis Martinez stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: At § 87(2)(b) and § 87(2)(b) in Brooklyn, Police Officer William Russ stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) stated that early in the morning on January 3, 2019, he exited his mother's apartment on § 87(2)(b) in Brooklyn and drove to the intersection of § 87(2)(b) and § 87(2)(b) (**07 Board Review**). § 87(2)(b) turned left onto § 87(2)(b) and made eye contact with PO Russ and Sgt. Martinez, who were in their car waiting at the intersection, and drove on. § 87(2)(b) turned left onto § 87(2)(b) and, seeing that the officers were following him, pulled over in front of the Family Dollar storefront.

§ 87(2)(b) stated that he exited his car, leaned against it, and asked the officers why they were following him. He told the officers that he was a law-abiding citizen who had not robbed or killed anybody. From their car, the officers laughed at § 87(2)(b) and drove on after one to three

minutes. There were other people around on the sidewalk, but § 87(2)(b) did not think that they were paying attention to the incident.

§ 87(2)(b) stated that after the officers drove on, they turned right onto § 87(2)(b) made a U-turn, and waited for § 87(2)(b) to drive past them. Once § 87(2)(b) drove through the intersection at § 87(2)(b) the officers turned on their lights and sirens and pulled him over just past the intersection on § 87(2)(b) in front of a laundromat.

PO Russ and Sgt. Martinez were consistent in their statements that during the time of the incident, they were on a routine patrol (**08, 09 Board Review**). They stated that vehicle traffic was light. They first became aware of § 87(2)(b) when he pulled his vehicle over to the side of the road in front of them and exited it. Neither officer could remember how far § 87(2)(b)'s car was from the curb. Both officers testified that § 87(2)(b) exited his car and began to yell about being harassed. No civilians congregated in the area when § 87(2)(b) first pulled his car over.

Sgt. Martinez stated that § 87(2)(b)'s car was "kinda blocking traffic" but could not recall how far away from the curb his car was. No cars had to stop behind § 87(2)(b)'s car. When asked whether any cars needed to maneuver around § 87(2)(b)'s car, Sgt. Martinez stated, "Not that I recall." PO Russ maneuvered the RMP parallel beside § 87(2)(b)'s car and, from the interior of the car, asked § 87(2)(b) whether he was alright. Sgt. Martinez told § 87(2)(b) to get back in his car five or six times because he was being disorderly and blocking traffic. Sgt. Martinez did not believe that § 87(2)(b) had committed any crimes at first, but later decided that he had committed disorderly conduct. § 87(2)(b) entered his car again after approximately one minute.

PO Russ was driving. He stated that he did not see § 87(2)(b) commit any traffic infractions. Sgt. Martinez told PO Russ to stop the RMP behind § 87(2)(b)'s car in front of Family Dollar. He stopped the police vehicle slightly closer to the middle of the road than § 87(2)(b)'s car. PO Russ did not have to come to an abrupt stop. PO Russ stated that the officers exited their car and told § 87(2)(b) to get back into his car over a dozen times during a period of approximately five minutes. § 87(2)(b) was standing approximately two feet away from his vehicle and never moved from that spot. PO Russ stated that § 87(2)(b) had caused an unsafe situation because he and Sgt. Martinez had to exit their car, stand in the traffic lane, and leave their vehicle unattended while speaking to § 87(2)(b).

Sgt. Martinez and PO Russ were consistent in their statements that after the officers spoke to § 87(2)(b) PO Russ drove the RMP forward and turned right onto a side street. The officers then made a U-turn. As they were doing so, the officers saw § 87(2)(b) again. He had pulled over in front of a laundromat on § 87(2)(b) and was yelling at the officers. The officers drove toward § 87(2)(b) turned on their lights, and exited the car to investigate further.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation (C) Abuse of Authority: At § 87(2)(b) and § 87(2)(b) in Brooklyn, Sergeant Louis Martinez threatened to arrest § 87(2)(b)

§ 87(2)(b) stated that after Sgt. Martinez and PO Russ pulled him over, they approached his car and asked for his license and registration. § 87(2)(b) stepped out of his car and told the officers that there was no reason for them to have pulled him over. He told the officers that they were threatening, following, and racially profiling him. Sgt. Martinez told § 87(2)(b) “If you don’t give us your license and registration, we’re going to lock you up.” § 87(2)(b) reached for his license, which was in his back pocket, but could not do it quickly enough. Sgt. Martinez told § 87(2)(b) to exit his car.

Sgt. Martinez and PO Russ stated that § 87(2)(b) pulled his car over of his own volition. § 87(2)(b) exited his car and continued to tell the officers that they were harassing him. The officers were consistent in their statements that the civilians who gathered where § 87(2)(b) was yelling were not interacting with § 87(2)(b) or the officers.

Sgt. Martinez stated that § 87(2)(b) had pulled over in front of a laundromat that had between six and ten people in front of it. Six to ten additional pedestrians came out of the laundromat due to § 87(2)(b)’s yelling, which was “more aggressive” than the first time that he had stopped his car. The members of the crowd were distracting in their mere presence to Sgt. Martinez but did not otherwise interfere with his duties.

PO Russ also stated that civilians came out of a building near where § 87(2)(b) had pulled his car over. He could not remember how many civilians had gathered. The only interactions he had with the crowd was to tell its members to step back, and they complied.

Sgt. Martinez asked § 87(2)(b) for his driver’s license, insurance, and registration. § 87(2)(b) refused to give any identification or pedigree information after being asked for it six or seven times. Sgt. Martinez requested this information because he wanted to verify who § 87(2)(b) was and to issue him a summons. § 87(2)(b)’s yelling at the officers had caused a crowd to form. Sgt. Martinez told § 87(2)(b) that if he did not provide his information, he would be placed under arrest. He specified during the interview that § 87(2)(b) would be arrested for disorderly conduct, subsection 1, which penalizes engaging in fighting or in violent, tumultuous or threatening behavior.

PO Russ’s body-worn camera footage, from 0:00 to 2:15, captures a portion of this incident (**01 Board Review**). It does not capture the allegation. However, it does capture Sgt. Martinez and PO Russ repeatedly asking § 87(2)(b) for his driver’s license and registration. In response, § 87(2)(b) tells the officers that he is going to sue them and alleges that they are following and racially profiling him. In the beginning of the footage, there are four civilians standing under the awning of a business, roughly 15 feet away. They are silent, and the officers do not address them during the recorded portion of the incident. It cannot be determined whether the civilians are facing the scene of the car stop or paying attention to one another. The size of the group of civilians dwindles to one after the camera has been recording for one minute and 55 seconds. § 87(2)(b) refuses to provide his license and registration and tells the officers to “lock [him] up” and “take [him] to the station.” § 87(2)(b) says both that he does and does not have his license and registration with him. At 2:05, Sgt. Martinez orders § 87(2)(b) to exit his car and then places him in handcuffs. § 87(2)(b) is not captured blocking traffic.

The southwest corner of the intersection of § 87(2)(b) and § 87(2)(b) where § 87(2)(b)'s car eventually came to a halt is a bus stop (**10 Board Review**).

New York City Traffic Law § 4-08(c)(3) states that “no person shall stand or park a vehicle other than an authorized bus in its assigned bus stop when any such stop has been officially designated and appropriately posted” except for the purpose of “expeditiously receiving and discharging passengers” in a way that “does not interfere with any bus about to enter or leave such stop” (**11 Board Review**). A police officer may arrest an individual when they have probable cause to believe that such person has committed an offense in their presence (**12 Board Review**). New York State Criminal Procedure Law § 140.10(a). “For purposes of arrest without a warrant, pursuant to article one hundred forty of the criminal procedure law, a traffic infraction shall be deemed an offense.” New York State Vehicle and Traffic Law § 155 (**13 Board Review**).

According to subsections 1, 2, and 5 of New York State Penal Law § 240.20, “a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof,” “he engages in fighting or in violent, tumultuous or threatening behavior,” “makes unreasonable noise,” or “obstructs vehicular or pedestrian traffic” (**14 Board Review**). In People v. Weaver, the court noted that an essential component of disorderly conduct is that an individual’s actions cause or have the potential to cause public harm: “In assessing whether an act carries public ramifications, relevant factors to consider are the time and place of the episode under scrutiny; the nature and character of the conduct; the number of other people in the vicinity; whether they are drawn to the disturbance and, if so, the nature and number of those attracted; and any other relevant circumstances” 16 N.Y.3d 123 (2011) (**15 Board Review**). Disorderly conduct is an offense reserved for disruptive behavior that carries beyond the concerns of individual disputants. People v. Munafo, 50 N.Y.2d 326 (1980) (**16 Board Review**).

§ 87(2)(b), § 87(2)(g)

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Allegation (D) Abuse of Authority: At § 87(2)(b) and § 87(2)(b) in Brooklyn, an officer used physical force against § 87(2)(b)
Allegation (E) Abuse of Authority: At § 87(2)(b) and § 87(2)(b) in Brooklyn, Police Officer William Russ frisked § 87(2)(b)

§ 87(2)(b) stated that after he was ordered to leave his car, he complied. Outside of his car, an officer grabbed him by his upper arms and pushed him against his car. § 87(2)(b) did not fight back against the officers when they did this. § 87(2)(b) was unable to recall which officer pushed him against his car. The frisk allegation is being pleaded based on the BWC recording.

Sgt. Martinez stated that it was his intent to bring § 87(2)(b) back to the 73rd Precinct stationhouse at the moment he was handcuffed (**09 Board Review**). He wanted to do this to verify § 87(2)(b)'s identity since he was going to be issued a summons. By the time § 87(2)(b) exited his car, Sgt. Martinez had asked him multiple times for his ID, and § 87(2)(b) had not responded.

Both Sgt. Martinez and PO Russ denied pushing § 87(2)(b) against his car.

Sgt. Martinez's and PO Russ's body-worn camera footage capture the portion of the incident between § 87(2)(b) exiting his car and being placed into a police car from 2:50 to 5:43 and from 2:12 to 5:00, respectively (**05, 01 Board Review**). PO Russ's body-worn camera footage shows that Sgt. Martinez handcuffed § 87(2)(b) immediately after he exited his vehicle. Thereafter, PO Russ walks § 87(2)(b) to the front of his car, frisks him, and waits for a second police car to arrive at the scene. When it arrives, PO Russ brings § 87(2)(b) to the car, waits for him to sit in the back seat, and closes the door behind him.

§ 87(2)(b), § 87(2)(g)

NYPD Patrol Guide Procedure 209-09 states that are to conduct a license and warrant check when issuing a summons returnable to Traffic Violations Bureau or criminal court (**27 Board Review**). Officers are to remove violators to their respective commands if doubt concerning their identity exists. NYPD Patrol Guide Procedure 208-03 states that officers are to immediately frisk a prisoner for weapons, evidence, or contraband after they have been arrested and handcuffed (**26 Board Review**).

§ 87(2)(b), § 87(2)(g)

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Allegation (F) Abuse of Authority: At § 87(2)(b) and § 87(2)(b) in Brooklyn, Sergeant Louis Martinez searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (G) Abuse of Authority: At § 87(2)(b) and § 87(2)(b) in Brooklyn, Police Officer William Russ searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (H) Abuse of Authority: At § 87(2)(b) and § 87(2)(b) in Brooklyn, Police Officer William Russ seized § 87(2)(b)'s property.

§ 87(2)(b) stated that he was in the back of a police car that had arrived at the scene when he saw Sgt. Martinez and PO Russ search his car. Sgt. Martinez was on the driver's side of the vehicle looking in the driver's side door, and PO Russ was looking inside of his car's glove compartment.

Sgt. Martinez stated that he opened the door to § 87(2)(b)'s vehicle and looked inside of it with his flashlight. He did not believe that the car contained any contraband. While Sgt. Martinez looked inside of the vehicle, he did not enter it. He instructed PO Russ to drive § 87(2)(b)'s vehicle back to the 73rd Precinct stationhouse because it was parked in a bus stop.

PO Russ stated that the only time he entered § 87(2)(b)'s car was to transport it back to the 73rd Precinct stationhouse.

Sgt. Martinez's body-worn camera footage, from 4:50 to 5:20, shows him opening § 87(2)(b)'s car door and shining his flashlight into the passenger cabin and on the door panel (**05 Board Review**).

§ 87(2)(b), § 87(2)(g)
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NYPD Patrol Guide procedure 218-12 states that "a vehicle may be safeguarded at the command for forty-eight hours when not required as evidence" (**17 Board Review**).

§ 87(2)(b), § 87(2)(g)
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§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

Allegation (I) Abuse of Authority: At the 73rd Precinct stationhouse, Police Officer William Russ issued a summons to § 87(2)(b)

Allegation (J) Abuse of Authority: At the 73rd Precinct stationhouse, Police Officer William Russ issued a summons to § 87(2)(b)

§ 87(2)(b) reiterated that seeing that the officers were following him, he pulled over in front of the Family Dollar storefront. He exited his car, leaned against it, and asked the officers why they were following him. He told the officers that he was a law-abiding citizen who had not killed anybody. The officers laughed at § 87(2)(b) and drove on after one to three minutes. There were other people around on the sidewalk, but § 87(2)(b) did not think that they were paying attention. The officers drove on, then made a U-turn, and waited for § 87(2)(b) to drive past them. Once § 87(2)(b) drove through the intersection at § 87(2)(b) the officers turned on their lights and sirens and pulled him over.

PO Russ and Sgt. Martinez were consistent in their statements that they were on a routine patrol in light traffic. § 87(2)(b) pulled over in front of them and exited his vehicle. § 87(2)(b) exited his car and began to yell about being harassed. No civilians congregated at this time.

Sgt. Martinez could not remember if § 87(2)(b) stopped against the curb or blocked any traffic. PO Russ pulled the RMP beside § 87(2)(b)'s car. Sgt. Martinez told § 87(2)(b) to get back in his car five or six times because he was being disorderly and blocking traffic. Sgt. Martinez did not believe that § 87(2)(b) had committed any crimes. § 87(2)(b) entered his car again after approximately one minute. Sgt. Martinez did not believe that § 87(2)(b) had committed any crimes at first, but later decided that he had committed disorderly conduct.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) stated that later, at the 73rd Precinct stationhouse, he received two summonses that were written by PO Russ.

Digital copies of the summonses issued to § 87(2)(b) can be viewed in **18 Board Review**. The

§ 87(2)(b), § 87(2)(g)

PO Russ stated that the disorderly conduct summons for blocking traffic was written in response to § 87(2)(b)'s actions when he first pulled his car over. The second summons was written in response to § 87(2)(b)'s actions when he pulled his car over a second time.

According to subsections 1, 2, and 5 of New York State Penal Law § 240.20, “a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof,” “he engages in fighting or in violent, tumultuous or threatening behavior,” “makes unreasonable noise,” or “obstructs vehicular or pedestrian traffic” (**14 Board Review**). An essential component of disorderly conduct is that an individual’s actions cause, or have the potential to cause public harm. In People v. Weaver, the court noted that “in assessing whether an act carries public ramifications, relevant factors to consider are the time and place of the episode under scrutiny; the nature and character of the conduct; the number of other people in the vicinity; whether they are drawn to the disturbance and, if so, the nature and number of those attracted; and any other relevant circumstances” 16 N.Y.3d 123 (2011) (**15 Board Review**). Disorderly conduct is an offense reserved for disruptive behavior that carries beyond the concerns of individual disputants. People v. Munafo, 50 N.Y.2d 326 (1980) (**16 Board Review**).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation (K) Offensive Language: At the 73rd Precinct stationhouse, Sergeant Arthur McCarthy made comments about § 87(2)(b) s perceived mental state.

Allegation (L) Abuse of Authority: At the 73rd Precinct stationhouse, Sergeant Louis Martinez removed § 87(2)(b) to the hospital.

Allegation (M) Abuse of Authority: At the 73rd Precinct stationhouse, Police Officer William Russ removed § 87(2)(b) to the hospital.

It is undisputed that after being issued summonses, § 87(2)(b) refused to leave the 73rd Precinct holding cell and continued to allege that he had been racially profiled.

§ 87(2)(b) stated that after he had been lodged in the 73rd Precinct holding cell for approximately three to five hours, officers opened the cell. PO Russ told § 87(2)(b) that he was free to go. § 87(2)(b) said that he was not free to go, and refused to leave until he could speak to “the news” or the officers’ supervisor. Sgt. McCarthy walked to § 87(2)(b) introduced himself

as the sergeant in charge, and told § 87(2)(b) “You’re crazy.” Sgt. Martinez and PO Russ told § 87(2)(b) that they were going to call an ambulance to take § 87(2)(b) to the hospital. FDNY EMTs arrived. Eventually, EMT § 87(2)(b) convinced § 87(2)(b) that the easy way out of the situation was to come with him to the hospital. § 87(2)(b) was taken to § 87(2)(b).

PO Russ stated that after he issued § 87(2)(b) summonses, he refused to leave the cell until he could speak to a judge. PO Russ called NYPD Legal Bureau because he had never encountered a situation where a civilian refused to leave a cell. He called the Legal Bureau with the intention of getting § 87(2)(b) to leave voluntarily. PO Russ spoke to Elizabeth Moehle over the phone and told her that § 87(2)(b) refused to leave the cell. Elizabeth Moehle advised PO Russ to remove § 87(2)(b) to the hospital. Nothing other than § 87(2)(b)'s behavior in the street and his refusal to leave the cell led PO Russ to believe that § 87(2)(b) was emotionally disturbed. § 87(2)(b) was not acting violently, and PO Russ did not believe that § 87(2)(b) was a threat to himself or to others. PO Russ called EMS to the stationhouse with the intention of having § 87(2)(b) removed to the hospital. He informed the EMTs that § 87(2)(b) had refused to leave the cell and had acted irrationally both in the stationhouse and on the street.

Sgt. Martinez stated that § 87(2)(b) refused to leave the holding cell and told Sgt. Martinez, “You’re going to have to physically take me out.” Sgt. Martinez instructed PO Russ to call the NYPD’s Legal Bureau. After being advised by the Legal Bureau to treat § 87(2)(b) as an emotionally disturbed person, PO Russ and Sgt. Martinez called EMS to the stationhouse. Sgt. Martinez stated that he called EMS to the stationhouse to evaluate § 87(2)(b). Sgt. Martinez stated that he did not know what § 87(2)(b)'s intentions were in staying in the holding cell and did not know whether § 87(2)(b) was trying to commit suicide. § 87(2)(b) made no threatening statements and took no threatening actions. § 87(2)(b) went to the hospital voluntarily with EMTs.

Sgt. McCarthy, the desk officer on duty at the time, stated that he arrived at his tour early and was informed by PO Russ and Sgt. Martinez that they were holding a prisoner who was “unusually irrational and upset” (21 Board Review). Sgt. McCarthy could hear § 87(2)(b) yelling. Sgt. McCarthy performed a cell inspection and asked § 87(2)(b) whether he needed any medical attention or took any medication. These questions aggravated § 87(2)(b). Sgt. McCarthy did not witness § 87(2)(b) speak about killing, starving, or hurting himself. Sgt. McCarthy did not remember whether § 87(2)(b) made any threats against any other individuals.

EMT § 87(2)(b) stated that at the stationhouse, he was told by an officer that § 87(2)(b) had begun to speak about hurting himself (17 Board Review). § 87(2)(b) then told EMT § 87(2)(b) that he wanted to starve or hurt himself and did not want to live. For this reason, EMT § 87(2)(b) decided that § 87(2)(b) should be removed to the hospital. EMT § 87(2)(b) did not know whether § 87(2)(b) was emotionally disturbed because he did not know about § 87(2)(b)'s psychiatric history.

EMT § 87(2)(b) stated that upon arriving to the stationhouse, an officer told him that § 87(2)(b) had threatened to kill himself (18 Board Review). EMT § 87(2)(b) asked § 87(2)(b) whether he wanted to hurt himself, and § 87(2)(b) said that he did not. § 87(2)(b) was crying and alleging that he had been racially profiled. § 87(2)(b) never acknowledged making any statements about suicide. EMT § 87(2)(b) thought that § 87(2)(b) “was just upset,” and was not an emotionally disturbed person. EMT § 87(2)(b) explained to § 87(2)(b) that the EMTs needed to take him to the hospital.

Sgt. McCarthy, Sgt. Martinez, PO Russ, EMT § 87(2)(b) and EMT § 87(2)(b) each denied that Sgt. McCarthy told § 87(2)(b) “You’re crazy.”

The narrative in the ambulance call report reads that § 87(2)(b) was upset, crying, and refused to leave his cell (**19 Board Review**). The document reports that § 87(2)(b) denied any tendency to hurt himself or others.

§ 87(2)(b)'s medical records from § 87(2)(b) are located in **20** and **25 Board Review**. In § 87(2)(b)'s emergency department psychiatric evaluation, he disclosed that he is “paranoid about police” and denied homicidal and suicidal thought, plan, and intent. He also denied hallucinations, mania, and having a psychiatric history. The psychiatrist wrote that “on assessment, patient appears hyperactive, bizarre, with rapid speech. He is anxious, irritated, hyper verbal. However, patient is not in danger for self or other at this time.”

NYPD Patrol Guide procedure 216-01 states that officers are to “cooperate with ambulance and hospital personnel in every reasonable manner” (**22 Board Review**).

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED].

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED].

§ 87(2)(b), § 87(2)(g), § 87(4-b)
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b)
- Sgt. Martinez has been a member of service for eight years and has been a subject in four other CCRB complaints and six other allegations, one of which was substantiated. Sgt. § 87(2)(g)
- 201604838 involved a substantiated allegation of a forcible removal to the hospital. The Board recommended command-level instructions and the NYPD imposed no disciplinary action.
- PO Russ has been a member of service for one year and this is the first CCRB complaint to which he has been a subject.
- Sgt. McCarthy has been a member of service for eight years and has been a subject in four other CCRB complaints and three other allegations, none of which were substantiated. § 87(2)(g)
- § 87(2)(b), § 87(2)(c) and 201901440 are open investigations.

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation.
- As of May 29, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (**23 Board Review**).
- § 87(2)(b)

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

